

**MINUTES OF PUBLIC MEETING  
FOR THE CORRECTIONS OFFICER RETIREMENT PLAN LOCAL BOARD  
FOR THE SUPERIOR COURT**

A Public Meeting of the Corrections Officer Retirement Plan Local Board for the Superior Court was convened Tuesday, September 6, 2016, at 10:00 a.m., Conference Room 109, Arizona State Courts Building, 1501 West Washington Street, Phoenix, Arizona.

**Board Members Present in Conference Room 109:** Kevin Kluge, Chairman; Rob Lubitz; Mark Smalley

**Board Members Attending via Conference Call:** Jason Hathcock; Danna Quinn

**Also Present:** Annette Corallo, Board Secretary; Leticia Chavez, Recorder

**Call to Order:**

**Approval of the Minutes:**

August 2, 2016 – Public Meeting Minutes

August 2, 2016 – Executive Session Minutes

The Chair asked for any changes or corrections. Board Member Mark Smalley noted two changes in the public meeting minutes. He stated that the term “ACCESS” in the second paragraph on page 2 should be changed to “AHCCCS” and suggested that the term “Comp” in the fifth paragraph on page 3 should be spelled out, as “Compensation.”

**MOTION: A motion to approve the public and executive session meeting minutes of the August 2, 2016 meeting with noted changes was made by Mark Smalley.** Motion was seconded and passed unanimously; minutes stand approved. **CORP 2016-46**

**Periodic Disability Benefits Reviews:**

At the May 3, 2016 meeting, staff was asked to research other boards’ practices for reviewing disability benefit awards, so that the Board might determine if it would be possible to develop a practice or policy for reviewing disability cases. Board member Rob Lubitz shared at the May 3, 2016 meeting that the Social Security Disability system uses three classifications to determine the frequency of reviews:

1. If medical improvement is expected, the case will normally be reviewed within six to 18 months after benefits start.
2. If medical improvement is possible, but can’t be predicted, the case will normally be reviewed about every three years.
3. If medical improvement is not expected, the case will normally be reviewed every seven years.

Staff could not determine from the Social Security website how these medical improvement terms are defined (expected, possible, not expected) and who makes the determination of likelihood of

improvement. It would seem that application of this system would rely on a medical examiner's determination of the likelihood of medical improvement. A copy of the webpage describing the Social Security disability review process was provided to the Board for review.

Staff contacted the boards for the Department of Corrections (DOC), Juvenile Department of Corrections and the Maricopa County Sheriff's Office (MCSO) for information about the review practices followed by those boards. The Juvenile Department of Corrections did not respond. All responses from the DOC and MCSO boards were provided to the Board for review.

The Board Secretary reported that, from the responses received, the DOC and MCSO boards are handling their reviews in the same manner as this Board. Neither had a specific policy or practice for review, and instead handle review on a case-by-case basis. Both will conduct a medical re-evaluation if the situation seems to warrant a medical opinion, as will this Board, but all recognize the costs involved as the number of disability awards increase.

The Board Secretary advised that she also contacted the Board Attorney for her experience with disability reviews with other boards she advises. The Board Attorney reported that because the Public Safety disability benefit only ceases if "the member refuses an offer of employment by an employer in the same system," there is rarely any incentive to periodically review disability benefit awards for Public Safety members.

Staff did not attempt to contact any Public Safety boards (e.g., City of Phoenix) given the Board Attorney's explanation as to why those boards were very unlikely to conduct periodic reviews.

The Board Secretary advised that if the Board were to consider using a practice similar to Social Security, the Board would need to decide whether to ask the IME doctor to address the "expected, possible, not expected" determination for medical improvement as part of the IME, as the Board would need to make its determination based on the IME.

The Board Secretary also advised that the Board Attorney suggested the Board might want to consider setting these reviews on an agenda as a group twice a year, as it might offer cost savings and allow the Board to conduct reviews on an organized schedule. Based on the review dates set for existing disability awards, it appears that May and December are the predominant months.

Board Member Rob Lubitz stated that he does like the idea of using a similar practice to Social Security but would suggest the practice be a written guideline the Board could follow, rather than a policy that may legally bind the Board, as there may be cases that will fall under a special circumstance. Mr. Lubitz also suggested that if posing the 'expected, possible, not expected' improvement question to the IME doctor, the Board should also ask the IME doctor to give a brief explanation of the determination so the Board could also use this information to make a determination in the case.

The Chair asked if having a written guideline would be legally binding for the Board and if the Board Secretary would communicate the Board's concerns to the Board Attorney. The Chair stated that if having a written guideline would not be legally binding he would be in favor of one being drafted, with the understanding that the Board could work outside of those guidelines based on the facts of the case. Board Member Jason Hathcock asked if the Board could simply include language that the guidelines are not legally binding. Mr. Hathcock also suggested including a statement that a case will no longer be reviewed when a member reaches 62 years of age or their normal retirement date, as specified in statute.

If the Board were to decide to review all disability cases twice a year, Board Member Mark Smalley asked how many cases would be reviewed at each meeting. The Board Secretary stated that currently the Board would review three to four cases per meeting.

The Chair stated that he had no issue reviewing cases as they come up for review but asked how much cost savings the twice-a-year meeting protocol would create. The Board Secretary stated that under the new state contract, Ottmar & Associates now charges a two-hour minimum, so having a court reporter appear every month for 15 to 20 minutes would be more expensive. The Board Secretary also advised that she was informally grouping reviews together last year when a court reporter was scheduled to appear for other matters. The Chair asked if the Board Secretary could continue that practice so that the Board could make use of the two-hour minimum. The Chair expressed concern with scheduling reviews only twice a year, in that those two meetings would be longer than the Board is used to meeting. The Board Secretary advised that the Board could also consider setting reviews three or four times per year instead of twice per year.

Board Member Mark Smalley stated that if the Board continues to review cases as they come up, there may be a point in time at which the Board is reviewing cases every month. However, if the Board were to put the twice-a-year review schedule in place now, it may help alleviate the strain of potentially reviewing disability cases every month.

The Chair stated that if the Board were to review cases only twice a year, the cases in the future could go from three to four per meeting, to 5 to 10, plus any new disability cases that may arise. The Chair also stated that if the Board were to implement this practice, it is also something that could be changed, i.e., if two meetings are not enough for all the reviews, meetings could be scheduled quarterly. The Chair also added that the Board should keep in mind the preparation for reviewing disability cases, as most cases have many medical records to review.

Board Member Rob Lubitz stated that he feels unless there is a considerable cost savings, reviewing cases as they came up has been working fine for the Board. The Board Secretary added that in terms of the Board knowing when a long meeting will happen, it may help Board Members with planning in advance. Board Member Jason Hathcock stated that he would prefer to review the cases as they come up. The Chair added that the Board could also try reviewing cases when and if the Board is hearing a disability case, to help with cost savings.

As for the guidelines and timeframes for review, the Chair asked if the Board Secretary could draft guidelines similar to Social Security for the Board to review at the October 4, 2016 meeting. The Chair also added that the guidelines should include language stating that the guidelines are not legally binding and that the Board has the ability to handle each case individually.

The Board Secretary asked if the Board would like a question or direction drafted for the IME doctor, so the Board can make their determination between 'expected, possible and not expected' improvement. The Board agreed and asked that the Board Secretary draft a question for the IME doctor.

As for the timeframe as it relates to 'expected, possible and not expected' improvement, the Board Secretary asked how the Board wished to proceed. The Chair stated that, by statute, the Board cannot review a case any more frequently than 12 months. The Chair suggested that if improvement is expected, a yearly review should be in place. Board Member Rob Lubitz suggested three years between reviews if improvement is possible. The Chair added that this would only be a guideline, as the Board could treat each case individually. As for improvement 'not expected,' the Chair suggested that this be handled on a case-by-case basis as it may not be necessary to review the case further due to the member approaching 62 years of age or their normal

retirement date, or having a terminal condition. Board Member Rob Lubitz added that it may be helpful to add a timeframe for the sake of the guidelines and suggested a review in six years with the understanding that if the member reaches age 62 or their normal retirement date, or is terminal, the Board could then decide not to review the case any further.

The Board agreed to the following timeframe guidelines: (1) expected improvement, yearly review; (2) possible improvement, three-year review; (3) improvement not expected, six-year review, unless the member reaches the age of 62 or normal retirement age, or has a terminal condition.

### **Approval of Normal Retirement Benefits:**

The Local Board may consider and vote on the approval of Normal Retirement benefits for the following applications or defer decision to a later date:

Stanley Armstrong  
Harold S. Bright III  
Rona H. Easterday  
Elizabeth A. Forton (Reverse DROP)  
Boyd V. Frick  
Steven M. Nesky  
Cynthia M. Romance

Board Member Mark Smalley noted that the Form C11 for Elizabeth Forton was not included in the material for review. The Chair requested a copy be provided to the Board for review prior to approval. Board staff left the meeting to obtain a copy of Ms. Forton's Form C11.

### **Acknowledgement of CORP Physical Exam Final Letters:**

The Chair noted, for the record, that physical examination reports for Andrew Nelson, Ryan Sawyer, and Julie M. Weber were not received within 60 days of receipt of their membership applications and that final letters requesting an examination were sent to these members via certified mail on August 15, 2016.

### **Acknowledgement of CORP Physical Pre-Existing Conditions:**

The Chair noted, for the record, that the physical examination report for member John Dwyer identified one or more pre-existing conditions.

### **Approval of Membership:**

The Local Board may consider and vote on the approval of the following requests for membership or defer decision to a later date:

Bell, Aaron	Maricopa	4/11/2016
Chavez, Monica	Maricopa	7/18/2016
Ciamiello, Sydney	Coconino	7/18/2016
Gewarges, Matthew	Pinal	6/20/2016
Greenway, Christopher	Coconino	7/18/2016
Grey, Melissa	Maricopa	4/25/2016

Johnson, Keiawnna	Maricopa	8/1/2016
Jones, Tyler	Maricopa	8/15/2016
Kennedy, Jennifer	Maricopa	8/1/2016
Kiger, Kincade	Maricopa	8/15/2016
Montes, John	Pinal	8/1/2016
Nelson, Andrew	Yavapai	6/5/2016
Padilla, Luz	Santa Cruz	7/2/2016
Sanchez, Francisco	Maricopa	8/15/2016
Sawyer, Ryan	Maricopa	6/6/2016
Vaughan, Victor	Maricopa	8/15/2016
Vilaire, Maria	Maricopa	7/18/2016
Weber, Julie	Mohave	6/13/2016

**MOTION: A motion to approve the 18 applicants listed on the agenda for this meeting for membership in CORP pursuant to A.R.S. § 38-893.D and to note for the record that the physical examinations for Christopher Greenway, Keiawnna Johnson, Tyler Jones, Jennifer Kennedy, Francisco Sanchez, Victor Vaughan and Maria Vilaire identified a physical or mental condition or injury that existed or occurred before the member's date of membership in the plan, was made by Rob Lubitz. Motion was seconded and passed unanimously. CORP 2016-46**

#### **Approval of Normal Retirement Benefits - Taken out of Order:**

**MOTION: A motion to approve the payment of Normal Retirement benefits to the following applicants in about the following amounts, effective September 1, 2016, except as noted, was made by Jason Hathcock. Motion was seconded and passed unanimously. CORP 2016-47**

Stanley Armstrong:	\$3,627.12, effective August 1, 2016
Harold S. Bright III:	\$2,257.43
Rona H. Easterday:	\$2,957.63
Elizabeth A. Forton:	\$4,111.44; Reverse DROP Estimate: \$49,683.66
Boyd V. Frick:	\$3,134.62
Steven M. Nesky:	\$3,232.89
Cynthia M. Romance:	\$2,412.16, effective August 1, 2016

#### **Future Agenda Items:**

No items were raised.

#### **Call to the Public:**

No members of the public addressed the Board.

The meeting was adjourned at 10:28 a.m.

Transcribed September 6, 2016